IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

Crl.MC.No. 3891 of 2006()

CC.266/2006 of CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA

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PETITIONER:

MARIYAMMA, W/O. KURIAN,
AGED 48, MANAYANI HOUSE,
PERUNNAI P.O.,
CHANGANACHERRY,
KOTTAYAM DISTRICT.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS:

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1. SREE GOKULAM CHITS AND FINANCE
CO. (P) LTD., 356, ARIOT ROAD,
KODAMBAKKOM, CHERRAI-24.
REP. BY THE POWER OF ATTORNEY HOLDER
MR.A.V. SANTHOSH, ASSISTANT BUSINESS
MANAGER, THODUPUZHA BRANCH.

2. STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3891 OF 2006

Dated this the 24th day of November, 2006.

ORDER

The petitioner, a woman faces indictment in a prosecution under Section 138 of the N.I Act. She had received summons issued from court. She had entered appearance through counsel. On 3 posting dates, counsel had appeared. Part payments have also been made towards the amount due under the cheque, it is submitted. As the petitioner was not appearing, the learned Magistrate dismissed the petition to excuse her absence and issued non bailable warrant against her. The petitioner, a woman now apprehends that the warrant may be executed. She prays that she may be saved of the trauma of arrest and detention in police custody. She is willing to surrender before the learned Magistrate on Monday, ie. 27.11.2006. In these circumstances, the short prayer made by the learned counsel for the petitioner is that arrest and detention of the petitioner in custody till she surrenders before the learned Magistrate on 27.11.2006, may be avoided by issuing appropriate directions.

2. In the peculiar facts and circumstances of this case, in the light of the assertion that part payments have been made

after the initiation of the proceedings and considering the fact that the petitioner is a woman and she offers to surrender before the learned Magistrate on 27.11.2006, I am satisfied that appropriate directions can be issued in the interests of justice.

3. In the result:

i) This Crl.M.C is allowed in part;

ii) The petitioner is permitted to surrender before the learned Magistrate at 11 a.m on 27.11.2006. If she applies for bail, the learned Magistrate shall consider the same on merits and pass appropriate orders on 27.11.2006 itself;

iii) If in the meantime, the petitioner were arrested, she shall be released on her executing a bond undertaking to appear before the learned Magistrate at 11 a.m on 27.11.2006 in execution of the warrant.

iv) If the petitioner does not so appear before the learned Magistrate at 11 a.m on 27.11.2006, these directions shall lapse and the police shall be at liberty to arrest the petitioner.

Hand over a copy of this order to the learned counsel for the petitioner today itself for production before the learned Magistrate.

R.BASANT
JUDGE

rtr/